

**In reply to: THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

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MARJORIE FERRELL, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	No. C-1-01-447
	)	
v.	)	Judge Sandra S. Beckwith
	)	
WYETH-AYERST LABORATORIES,	)	Magistrate Judge Timothy S. Hogan
INC., <i>et al.</i> ,	)	
	)	
Defendants.	)	

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**PLAINTIFFS' REPLY BRIEF IN SUPPORT OF THEIR MOTION FOR LEAVE  
TO ADD ADDITIONAL SUBCLASS 1 REPRESENTATIVE**

Wyeth opposes Plaintiffs' Motion for Leave on two grounds. First, Wyeth claims it will be prejudiced by having to take additional discovery from Ms. Berg. This argument has little merit because discovery has not yet commenced with regard to the remaining two representatives for Subclass 1 and because the amount of discovery required is not significant. For example, defendants previously only took a half-day deposition of plaintiffs' other consumer class representative, Marjorie Ferrell. This "burden" does not justify denying Ms. Berg the opportunity to participate in this case.

Second, Wyeth claims that Ms. Berg should not be permitted to participate because there are already two other representatives for Subclass 1 that have been designated by plaintiffs. While Wyeth is correct that plaintiffs have satisfied this Court's order with regard to designating a representative for Subclass 1, Wyeth has taken every opportunity to challenge the propriety of this Court's 9-month old class certification order. Indeed, Wyeth has previously challenged other class representatives proffered by

plaintiffs earlier in this litigation. Based on Wyeth's anticipated vigorous opposition to the subclass representatives plaintiffs proffered on March 4, 2005, it is in the best interest of the Class – and consistent with Class Counsel's duty to the Class – to allow Ms. Berg to participate in this case.

WHEREFORE Plaintiffs respectfully request leave to add Dorothy Berg as an additional representative for Subclass 1, and all other relief that this Court deems just and proper.

Dated: March 16, 2005

Respectfully submitted,

\ Joseph E. Conley, Jr.  
One of Plaintiffs' attorneys

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CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that a copy of the foregoing has been served electronically this 16<sup>th</sup> day of March 2005 on all Counsel of Record with the CM/ECF Registration and by facsimile and overnight delivery on the following:

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